

Defence form (rented residential premises)

Name of court Yarmouth County Court	Claim No. 3PB34567
Name of Claimant Yarmouth District Council	
Name of Defendant Keith Butterworth	
Date of hearing 23 November 2018	

Personal details

1. Please give your:

Title ☒ Mr ☐ Mrs ☐ Miss ☐ Ms ☐ Other Keith John

First name(s) in full
Keith John

Last name
Butterworth

Date of birth

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Address (if different from the address on the claim form)
N/A

Postcode

Disputing the claim

2. Do you agree with what is said about the premises and the tenancy agreement? ☒ Yes ☐ No

If No, set out your reasons below:

Did you receive the notice from the claimant referred to at paragraph 6 of the particulars of claim? ☒ Yes ☐ No

3. If Yes, when: 16 August 2018

4. Do you agree that there are arrears of rent as stated in the particulars of claim? ☒ Yes ☐ No
- If No, state how much the arrears are: £ _____ ☐ None

5. If the particulars of claim give any reasons for possession other than rent arrears, do you agree with what is said? ☐ Yes ☒ No

If No, give details below:
N/A

6. Do you have a money or other claim (a counterclaim) against your landlord? ☒ Yes ☐ No

If Yes, give details:

I wish to make a counterclaim for damages on the basis that my landlord has unlawfully discriminated against me. In particular, the Claimant has indirectly discriminated against me under section 19 Equality Act 2010 and it is also discriminated arising from disability under section 15 Equality Act 2010. I am seeking damages under section 119 Equality Act 2010.

Please see attached defence and counterclaim for further details.

Arrears

7. Have you paid any money to your landlord since the claim was issued? ☐ Yes ☒ No

If Yes, state how much you have paid and when: £ _____ date _____

8. Have you come to any agreement with your landlord about repaying the arrears since the claim was issued? ☐ Yes ☒ No

I have agreed to pay £ _____ each (week)(month)

9. If you have not reached an agreement with your landlord, do you want the court to consider allowing you to pay the arrears by instalments? ☒ Yes ☐ No

10. How much can you afford to pay in addition to the current rent? £50.00 per ~~(week)~~(month)

About yourself

State benefits

11. Are you receiving Income Support?

☐ Yes

☒ No

12. Have you applied for Income Support?

☐ Yes

☒ No

If Yes, when did you apply?

13. Are you receiving housing benefit?

☐ Yes

☒ No

If Yes, how much are you receiving?

£ _____ per (week)(month)

14. Have you applied for housing benefit?

☐ Yes

☒ No

If Yes, when did you apply?

15. Is the housing benefit paid

☐ to you

☐ to your landlord

Dependants *(people you look after financially)*

16. Have you any dependant children?

☐ Yes

☒ No

If Yes, give the number in each age group below:

☐ under 11 ☐ 11-15 ☐ 16-17 ☐ 18 and over

Other dependants

17. Give details of any other dependants for whom you are financially responsible:

N/A

Other residents

18. Give details of any other people living at the premises for whom you are not financially responsible:

N/A

Money you receive

19. Usual take-home pay or income if self-employed £50.00 Weekly ☒ Monthly ☐
including overtime, commission, bonuses
- Job Seekers allowance £ ☐ ☐
- Pension £ ☐ ☐
- Child benefit £ ☐ ☐
- Other benefits and allowances £ ☐ ☐
- Others living in my home give me £ ☐ ☐
- I am paid maintenance for myself (or children) of £ ☐ ☐
- Other income £ ☐ ☐
- Total income** £ ☐ ☐

Bank accounts and savings

20. Do you have a current bank or building society account? ☒ Yes ☐ No

If Yes, is it

☐ in credit? If so, by how much? £

☒ overdrawn? If so, by how much? £500.00

21. Do you have a savings or deposit account? ☐ Yes ☒ No

If Yes, what is the balance? £

Money you pay out

22. Do you have to pay any court orders or fines?

Court	Claim/Case number	Balance owing	Instalments paid
N/A			
Total Instalments paid £			per month

23. Give details if you are in arrears with any of the court payments or fines:

N/A

24. Do you have any loan or credit debts?

☒ Yes

☐ No

Loan/credit from	Balance owing	Instalments paid
Barclays	1200	100
FurnitureCity	600	30
121Finance	600	50
Total Instalments £180.00		per month

25. Give details if you are in arrears with any loan / credit repayments:

I am behind with all of my debts so I'm not paying anything at the moment. I have been struggling financially. I need to come to payment arrangements to catch up with what I owe.

Regular expenses

(Do not include any payments made by other members of the household out of their own income)

26. What regular expenses do you have?

(List below)

		Weekly	Monthly
Council tax	£25.00	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Gas	£ 20.00	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Electricity	£ 25.00	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Water charges	£ 15.00	<input checked="" type="checkbox"/>	<input type="checkbox"/>
TV rental & licence	£ 12.00	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Telephone	£ 5.00	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Credit repayments	£	<input type="checkbox"/>	<input type="checkbox"/>
Mail order	£	<input type="checkbox"/>	<input type="checkbox"/>
Housekeeping, food, school meals	£ 50.00	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Travelling expenses	£	<input type="checkbox"/>	<input type="checkbox"/>
Clothing	£ 10.00	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Maintenance payments	£	<input type="checkbox"/>	<input type="checkbox"/>
Other	£	<input type="checkbox"/>	<input type="checkbox"/>
Total expenses	£ 162.00	<input type="checkbox"/>	<input type="checkbox"/>

Priority debts

27. This section is for arrears only. Do not include regular expenses listed at Question 26.

		Weekly	Monthly
Council tax arrears	£ 5.00	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Water charges arrears	£	<input type="checkbox"/>	<input type="checkbox"/>
Gas account	£	<input type="checkbox"/>	<input type="checkbox"/>
Electricity account	£	<input type="checkbox"/>	<input type="checkbox"/>
Maintenance arrears	£	<input type="checkbox"/>	<input type="checkbox"/>
Others (give details below)			
	£	<input type="checkbox"/>	<input type="checkbox"/>
	£	<input type="checkbox"/>	<input type="checkbox"/>
	£	<input type="checkbox"/>	<input type="checkbox"/>

28. If an order for possession were to be made, would you have somewhere else to live? ☐ Yes ☒ No

If Yes, say when you would be able to move in: _____

29. Give details of any events or circumstances which have led to your being in arrears of rent (*for example divorce, separation, redundancy, bereavement, illness, bankruptcy*) or any other particular circumstances affecting your case. If there are any reasons why the date any possession order takes effect should be delayed, give them here. If you believe you would suffer exceptional hardship by being ordered to leave the property immediately, say why.

I wish to defend this case under Part 4 of the Equality Act 2010.

The Claimant is trying to evict me because of rent arrears. I am a secure tenant of the council. I offered to start to repay my arrears but this was refused as my landlord has a rule that they will only accept payment arrangements if the tenant fills in an online income and expenditure form. I cannot do this without help as I have severe dyslexia.

My landlord is indirectly discriminating against me because this procedure which puts me at a disadvantage compared to people without my protected characteristic. It is also discrimination arising from a disability because I am being evicted because of the rent arrears and would have been able to start to pay my rent arrears earlier if my landlord had let me make the payments that I had offered.

My landlord is also in breach of the Public Sector Equality Duty as they have not paid due regard to my disability when deciding whether to evict me.

I also do not think it would be reasonable for a possession order to be granted against me. If the court is minded to grant any possession order I would ask that it is suspended on terms that I pay my current rent when due plus an extra £50 per month towards my arrears.

I also wish to make a counterclaim for damages because of the discrimination that I have suffered and ask that such damages are offset against my rent arrears.

Please see full defence and counterclaim on the attached sheets

You need only answer question 30 if the claim form includes a claim for demotion or suspension of right to buy.

30. Do you agree with what is said about your conduct or use of the property?

☐ Yes

☒ No

If No, set out your reasons below:

N/A

Statement of Truth

*(I believe)(~~The defendant(s) believe(s)~~) that the facts stated in this defence form are true.

~~*I am duly authorised by the defendant(s) to sign this statement.~~

signed Keith Butterworth date 23 October 2018

*(Defendant)(~~Litigation friend (where defendant is a child or a patient)~~)(~~Defendant's solicitor~~)

**delete as appropriate*

Full name Keith John Butterworth

Name of defendant's solicitor's firm N/A

position or office held N/A

(if signing on behalf of firm or company)

**IN THE COUNTY COURT AT YARMOUTH
BETWEEN**

CLAIM NO: 3PB34567

YARMOUTH DISTRICT COUNCIL

Claimant

-and-

MR KEITH BUTTERWORTH

Defendant

ADDITIONAL DEFENCE FORM AND COUNTERCLAIM

1. This Additional Defence Form and Counterclaim is in addition to the Defence Form filed by the Defendant.
2. I am the Defendant in these proceedings and I admit that I live in a flat at 3 Field Street, Yarmouth, NR30 1BL, on my own under a secure tenancy. I have lived at the address for 2 years. I deny everything in the claim unless I admit it in this Defence and the Claimant is put to proof. I deny that the Claimant is entitled to end that tenancy and possession of the property as claimed.
3. I admit that I was given a notice seeking possession by the Claimant as said in the Particulars of Claim.
4. I admit that I have fallen behind with my rent but I am unable to say exactly how much I owes. The Claimant is put to strict proof as to how much the rent arrears are. Alternatively, I say that in any event I am able to set off against the rent the sums Counterclaimed below.
5. I deny that in all the circumstances it would be reasonable for a possession order to be made under the Housing Act 1985. In particular I say:
 - a. My rent debt started because my employer changed the way I was paid from weekly to monthly and reduced my hours in January to February 2018.
 - b. I did offer to make payments towards the debt in March 2018.
 - c. I now have regular work hours and am able to afford the rent.
 - d. The Claimant has discriminated against me (see below).
 - e. The Claimant failed to comply with its public sector equality duty (see below).
 - f. I am disabled with the meaning of s.6 of Equality Act 2010.
6. The Claimant is the owner and landlord of 3 Field Street.

7. I have a disability under s.6 Equality Act 2010 because I have a learning disability, namely severe dyslexia. My dyslexia is a mental impairment that has a substantial and long-term adverse effect on my ability to carry out normal day-to-day activities.
8. I defend the eviction under Part 4 of the Equality Act 2010. The Claimant has discriminated against me under s.35 in its decision to evict me. In particular, the Claimant has indirectly discriminated against me under s.19 Equality Act 2010, discriminated against me in connection with my disability under s.15 Equality Act 2010 and failed to make reasonable adjustments under s.21 Equality Act 2010.

PARTICULARS OF INDIRECT DISCRIMINATION

9. The Claimant as a landlord manages the flat, indirectly discriminated against me for the following reasons:
 - a. In or around January 2018 I admit that I did start failing to pay some rent because my employer changed the way I was paid.
 - b. In March 2018, I offered to pay the Claimant £50 extra per month to clear the rent debt.
 - c. On 21 March 2018, the Claimant refused to accept the offer because I had not followed the correct process for those who owe money.
 - d. The Claimant have a rule (provision, criterion or practice) that all tenants with rent debts must fill in an online statement that gives details about all their finances before they can set up a repayment plan.
 - e. I have suffered with severe dyslexia all my life and find it difficult to read and understand things. I was not able to understand and fill in the complicated statement.
 - f. The Claimant's rule to fill in an online statement discriminates against people who have a disability like severe dyslexia because they have difficulty reading and writing. This puts them at a particular disadvantage compared to people without severe dyslexia because they cannot fill in the form.
 - g. As I was unable to start repaying the rent debt, my debt increased which led to the Claimant deciding to evict me.

PARTICULARS OF DISCRIMINATION ARISING FROM A DISABILITY

10. The Claimant as a landlord manages the flat, discriminated against me because of my disability for the following reasons:
 - a. In or around January 2018 I admit that I did stop paying the rent because my employer changed the way I was paid.
 - b. The Claimant knew about my disability because they helped me fill in the forms when I first became a tenant two years ago.
 - c. I told the Claimant that I could start to make payments but they refused my offer because I hadn't filled the online form in.
 - d. I asked for help to fill the form in or not to have to fill the form in at all but this was refused.
 - e. The Claimant has decided to evict me because of something arising from my disability. My rent debt has increased because the Claimant did not allow me

to start repayments as I could not fill in the online statement due to my severe dyslexia.

PARTICULARS OF THE FAILURE TO MAKE REASONABLE ADJUSTMENTS

11. The Claimant as a landlord is a controller of let premises under s.36 Equality Act 2010 and has a duty to make reasonable adjustments under s.20 of Equality Act 2010.
12. My landlord has failed to make reasonable adjustments and has discriminated against me as follows:
 - a. My landlord has a rule (provision, criterion or practice) requiring people in rent arrears to complete an online income and expenditure form before they will accept a payment plan.
 - b. This provision, criterion or practice puts a disabled people at a substantial disadvantage in comparison with persons who are not disabled because people with learning difficulties like me struggle to complete forms.
 - c. They should take such steps as it is reasonable to have to take to avoid the disadvantage.
 - d. In or around January 2018 I got into rent arrears due to changes in my employment hours
 - e. In or around March 2018 I offered the Claimant to start paying my rent arrears off by instalments.
 - f. On 21 March 2018, the Claimant refused to accept the offer because I had not completed the only form.
 - g. I asked for help to fill the form in or not to have to fill the form in at all but this was refused. The Claimant told me that I'd need to fill the form in so that they could see that I could afford the payments and if not they couldn't accept my payment offer.
 - h. I have suffered with severe dyslexia all my life and find it difficult to read and understand things. I was not able to understand and fill in the complicated statement.
 - i. The Claimant knew about my disability because they helped me fill in the forms when I first became a tenant two years ago.
 - j. The Claimant's rule to fill in an online statement discriminates against people who have a disability like severe dyslexia because they have difficulty reading and writing. This puts them at a substantial disadvantage compared to people without severe dyslexia because they cannot fill in the form.
 - k. As I was unable to start repaying the rent debt, my debt increased which led to the Claimant deciding to evict me.

PARTICULARS OF BREACH OF PUBLIC SECTOR EQUALITY DUTY

13. The Claimant is a public authority for the purposes of the Equality Act 2010. As a public body, it is under a duty to take steps to take account of disabled persons' disabilities under s.149 of the Equality Act 2010. The Claimant has failed to pay due regard to the need to eliminate unlawful discrimination. The Claimant has failed to comply with its public sector

equality duty by failing to have due regard to my disability when deciding whether to evict me.

COUNTERCLAIM

14. I repeat paragraphs 1 to 13 above.

15. Due to the Claimant's actions, I have suffered loss, damage, distress, discomfort and inconvenience. I claim for injury to feelings under s.119 Equality Act 2010.

PARTICULARS OF GENERAL DAMAGE

- (a) I have been caused distress about being evicted especially as I would have nowhere else to go if I lost my home.
- (b) I have been embarrassed by the Claimant's actions and having to explain I have difficulties with reading and writing.

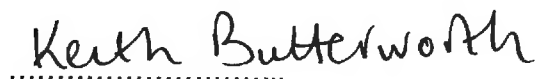
16. I counterclaim for:

- (1) Damages limited to £5000.
- (2) An Order saying that the Claimant has discriminated against me.
- (3) An Order to say the Claimant must accept repayment from me without having to fill in the online form.
- (4) Interests that the Court think appropriate.
- (5) Costs.

Dated: 23 October 2018

Statement of Truth

I believe that the facts stated in this Defence and Part 20 Counterclaim are true.



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KEITH BUTTERWORTH

To the Court Manager and to the Claimant